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ABSTRACT

This handbook is intended to assist Ohio school district officials in taking all necessary and reasonable means to alleviate racial imbalances which may be present among pupils or staff. First, court rulings on segregation since 1954 are analyzed. Aspects particularly related to school district policy are highlighted. School district actions suggestive of segregative intent in these areas are analyzed: changing attendance zones, changes in school facilities and curriculum, failure to end "de jure" segregation, feeder patterns, open enrollment, staff assignments, and transfer policy. Second, school districts are advised on how to reduce racial isolation in order to pass State Department of Education assessments. State expectations of any desegregation plan are outlined. And, finally, school districts are given guidelines for developing their own monitoring plans. Requirements within these areas of review are outlined: assignment of pupils; assignment of staff; buildings and boundaries; counseling; curriculum and instruction; discipline; extracurricular activities; funding; leadership; school community relations; staff development and human relations; testing; and transportation of pupils. (KH)

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Equal Educational Opportunity in Ohio Schools

A Guide for School Districts on Constitutional Provisions, Assessment Procedures and Monitoring Activities Pertaining to Racial Isolation

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Foreword

Alleviation of racial isolation in the schools of Ohio has long been a goal of the State Board of Education. Leadership activities of the State Department of Education have resulted in many school districts adopting and implementing affirmative action plans which have resulted in reduction or elimination of racial isolation. However, several Ohio school districts have been found by Federal district courts to have violated the constitutional rights of minority pupils by maintaining segregated schools.

As a result of these federal district courts findings, the State Board of Education unanimously adopted on June 12, 1978, the following "Resolution on Equal Educational Opportunities:"

> *WHEREAS the State Board of Education on May 13,1968 adopted a policy statement on equal educational opportunities: and*
>
> *WHEREAS said policy statement provided that "in programs administered, approved, or controlled by the Department of Education, every effort shall be made to prevent and to eliminate segregation of children and staff by reason of race or color;" and*
>
> *WHEREAS said policy statement recommended, among other things, "specific effort on the part of all school districts to find ways to move toward the solution of the problems of de facto segregation;" and*
>
> *WHEREAS the pluralistic nature of this country's mobile society continues to present challenges to the effective operation of elementary and secondary schools; and*

WHEREAS the goal of quality integrated education must be sustained to provide each student with the ability to exercise those cherished freedoms upon which this nation was founded: Therefore, be it

RESOLVED, That the State Board of Education reaffirm its May 13, 1968 policy statement on equal educational opportunities; and be it

FURTHER RESOLVED, That the State Department of Education be directed to prepare a comprehensive analysis of the evolving case law on discriminatory practices and remedial plans for dissemination to the school districts of the state; and be it

FURTHER RESOLVED, That the State Department of Education be directed to prepare an assessment instrument designed to identify discriminatory practices which have or continue to effect the contemporary racial balance within elementary and secondary schools; and be it

FURTHER RESOLVED, That the State Department of Education be directed to prepare a plan to monitor schools for the purpose of identifying and correcting any segregation caused by action or inaction of local school officials; and be it

FURTHER RESOLVED, That the comprehensive analysis of evolving case law, assessment instrument, and monitoring plan called for herein be submitted in a timely fashion for review and approval by the State Board of Education; and be it

FURTHER RESOLVED, That the State Board of Education—upon approval of the comprehensive analysis of evolving case law, assessment instrument, and monitoring plan—intends to and will effect their utilization through every means available for the purpose of assuring that all school districts comply with applicable laws and regulations; and be it

FURTHER RESOLVED, That the Superintendent of Public Instruction be directed to report findings and recommendations resulting from this resolution to the State Board of Education in a timely manner but not less than on an annual basis; and be it

FURTHER RESOLVED, That the Superintendent of Public Instruction be directed to provide a copy of this resolution to each school district in the state; to the Governor, Attorney General, members of the General Assembly, and to other appropriate agencies.

This "Guide for School Districts" has been prepared in response to the June 12, 1978 resolution and was formally approved by the State Board of Education on March 10, 1980.

School officials are encouraged to take all necessary and reasonable means to alleviate substantial racial imbalances which may be present among pupils or staff. The State Department of Education will provide to school districts every possible assistance in the process.

Assessment and monitoring activities should commence forthwith. Commitment and cooperation of school officials are essential to assure equal educational opportunity for all Ohio youth.

Franklin B. Walter

Franklin B. Walter
Superintendent of Public
Instruction

SECTION I

THE LAW

CONSTITUTIONAL PROVISIONS

The Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States provides:

[redacted]

Article I, Section 2, of the Constitution of the State of Ohio provides:

[redacted]

The "Equal Protection" clause of the Ohio Constitution has been held to be the equivalent of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.[1] [redacted]

COURT DECISIONS: THE EVOLUTION TO DATE

The Supreme Court of the United States and the United States Court of Appeals for the Sixth Circuit have rendered numerous decisions regarding racial segregation and the schools. Each of these decisions can be considered instructive to the schools of Ohio. Every effort has been made in this section to identify the controlling case law as it has evolved to date. Updates to this section will be made when new decisions are rendered which provide additional clarification or guidance to school officials.

The Supreme Court of the United States in *Plessy* (1896) suggested that it was not a violation of the Fourteenth Amendment for states to provide separate educational facilities for pupils of different races, provided the facilities were equal.[2] This was the rule of "separate but equal" which furnished constitutional authorization for dual school systems until 1954.[3] The "separate but equal" doctrine was abandoned by the U.S. Supreme Court in *Brown I* when it concluded "separate educational facilities are inherently unequal."[4]

In *Brown II*, decided the next year,the Supreme Court held that school authorities carried the primary burden of dismantling dual school systems with "all deliberate speed" and "courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles."[5]

Implementation of the *Brown II* mandate proceeded slowly in the states which had formerly maintained dual school systems. Where it was not deliberately disobeyed or evaded, compliance commonly took the form of the promulgation of "open enrollment" policies, under which pupils were permitted to enroll in any school of their choice. Open enrollment, fair on its face, proved to be an unsatisfactory method of dismantling the historic duality of school systems in those states which either mandated or permitted the separation of pupils on the basis of race in 1954.

In 1968, the Supreme Court held that open enrollment was not a constitutionally acceptable method of carrying out the *Brown II* mandate when it failed to eliminate the vestiges of a dual school system.[6] The Court insisted on a plan which would eliminate segregation "root and branch" and which "promises realistically to work, and promises realistically to work *now*."[7] **School systems were placed under a duty to take affirmative action in a variety of practical ways which would actually bring about the desegregation of pupils and staff.**

The Supreme Court placed its approval on a variety of desegregative techniques in 1971.[8] Among them was the busing of pupils in a large city school district, Charlotte-Mecklenberg, North Carolina. Previously busing had been confined to rural areas, where buses were traditionally used to get children to school. Busing in metropolitan areas for the purpose of desegregation was new. The Supreme Court approved it as a practical means of dismantling dual school systems.

During this period, from *Brown I* in 1954 to *Swann* in 1971, many school systems in Northern cities were developing large concentrations of minority pupils. **Residential areas were frequently segregated along racial lines, and schools which served those neighboorhoods reflected the residential distribution.** Federal courts were confronted with claims in the 1950's and 1960's that such racial concentrations in Northern schools should be eliminated just as they were being done away with in the South. Occasionally, in Northern states where there was evidence of gerrymandered attendance lines or other evidence of segregative intent, a school district was found guilty of violating the constitutional rights of minority pupils.[9]

In most cases, however, racial imbalances in Northern schools were attributed by the courts to underlying residential housing patterns. To the extent that schools reflected those patterns without the additional ingredient of intentional segregative action by school officials, the courts held that such imbalances were not unconstitutional.

A typical case during the mid-sixties held that the Cleveland school district was not in violation of the Constitution when it embarked on a program of new school construction in areas populated largely by blacks, even though empty classrooms were available in white neighborhoods several miles away.[10] Similarly, the Cincinnati Board of Education was held not obligated to achieve a more even racial distribution of pupils in its schools when the existing imbalances were due to underlying residential distributions.[11]

In 1971, the United States Court of Appeals for the Sixth Circuit held that a school district had no affirmative obligation to achieve a balance of races in schools when existing racial imbalance resulted from housing patterns and other forces exclusively over which the school administration had no control. However, it approved a lower court holding in reference to Pontiac, Michigan, that **"when the power to act is available, failure to take the necessary steps to...alleviate (racial imbalance) is as wrong as is the taking of affirmative steps to advance that situation."**[12] The board of education's school construction policy and its arrangement of boundary lines were found to have perpetuated pre-existing segregation and were declared unconstitutional. **The court also noted that the practice of assigning black faculty and administrators almost exclusively to schools which were attended by black children suggested segregative intent in other areas of operation—such as the shaping of attendance zones.**

In 1973, the Supreme Court of the United States decided a case involving Denver, Colorado. It was the first desegregation case decided by the Supreme Court involving a Northern or Western school district. The Supreme Court held that intentionally segregative school board actions in a meaningful part of a school system establishes a *prima facie* case against school authorities and shifts to them the burden of proving that other racially imbalanced schools in the system are not the result of their segregative intent. The Court held that, if they could not overcome that burden, the trial court would have to decree all-out desegregation of all segregated schools.[13]

In 1974, in a case involving Kalamazoo, Michigan, the Sixth Circuit set forth a theory of constitutional responsibility under which school officials were obligated not only to refrain from purposefully segregative activity but also to correct conditions of racial imbalance which were due to collateral causes.[14] **The court held that state and local school agencies act unconstitutionally if through action or *inaction* they have "to a substantial degree contributed to the creation or *maintenance* of segregated schooling."**[15] It held that school officials will be deemed to have intended segregated schools if the existing segregation "is to a significant extent the natural, probable and actual result of the actions and inactions of the state and local agencies..."[16]

The Court held that unconstitutional segregation consists of:

1. Action or inaction by public officials;

2. With a segregative purpose;

3. Which actually results in increased or continued segregation in the public schools.[17]

It said that "segregative purpose" could be proven by showing that "the natural, probable, and foreseeable result of public officials' action or inaction was an increase or perpetuation of public school segregation."[18] The Sixth Circuit thus implied an affirmative constitutional duty to eliminate racial isolation, however it was caused.

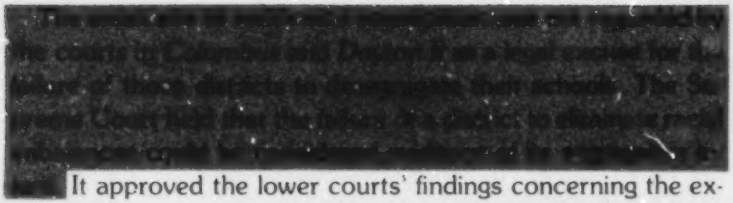
The Supreme Court had not imposed such a duty on school officials in those states which in 1954 neither mandated nor permitted dual school systems. In none of its decisions up to the time had the Supreme Court intimated that there was an affirmative duty to eliminate *de facto* segregation, as distinguished from *de jure* segregation, which is segregation caused by the intentional discrimination of school officials. The difference between those two types of segregation had been recognized in 1973 by

the Supreme Court in the Denver case, where it stated that "the differentiating factor between *de jure* and so-called *de facto* segregation is *purpose* or *intent* to segregate."[19]

In the *Pasadena* case in 1976, the Supreme Court held that racial imbalances in schools resulting from the random movement of elements of a city's population, without segregative involvement by school officials, did not warrant the judge's ordering school officials to maintain racial balance.[20] In *Dayton I*, the Court held that although many of Dayton's schools were either predominantly white or predominantly black, that fact did not *per se* offend the Constitution.[21] There was thus some question as to whether the affirmative duty concept, which the Sixth Circuit had implied, was actually in accordance with the views of the Supreme Court.

Those doubts were dispelled on July 2, 1979, when the Supreme Court decided *Columbus*[22] and *Dayton II*.[23] Those cases held that , where school officials were intentionally segregating some pupils in a meaningful portion of the the school system in 1954, an inference arises that *all* segregated schooling in the system was caused by their segregative intent. The Court held that such a district is under an affirmative obligation to eliminate all vestiges of the segregation it has caused. If it fails to do so, a federal court is authorized to order appropriate desegregative measures. If the court finds that the constitutional violation had "systemwide" effects, it may order a "systemwide" remedy. That remedy may consist of requiring a racial balance in every school within plus or minus fifteen percent of the district's overall racial composition.

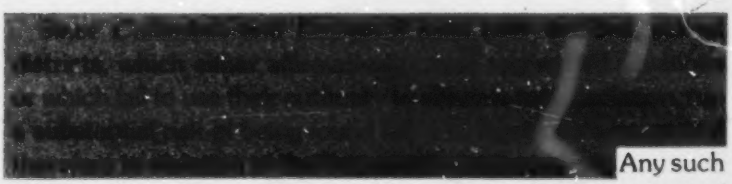
Where violations have not been systemwide, it must be determined how much incremental segregative effect those violations had on the racial distribution of the school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy.[24]



It approved the lower courts' findings concerning the existence of such intent, and it affirmed the Sixth Circuit's mandate of systemwide racial balances in all schools of those districts.

While *Columbus* and *Dayton II* both dealt with districts which were found guilty of intentional segregation of a portion of their pupil population in 1954, the decisions imply the existence of something approaching an affirmative duty to alleviate racial concentrations in districts without a history of prior unlawful segregation. The Supreme Court explicitly affirmed the Sixth Circuit's 1974 test for segregative intent set forth in the Kalamazoo case—which includes *inaction* in the face of existing racial imbalances.

There now appears to be a duty to take affirmative action to eliminate racial imbalances which may not have been caused by any discriminatory conduct by school officials. While the Supreme Court has not explicitly laid down such a duty, it has approved the Sixth Circuit's Kalamazoo test for discriminatory intent. It has held that a district which fails to take action which can eliminate racial imbalance may be found to have been motivated by discriminatory intent.



Any such finding will require a remedy which reaches as far as the scope of the violations. If they have had a "systemwide" effect, the remedy must also be "systemwide." It may include orders for busing to produce racial balance in every school of the district even though, as in the Columbus and Dayton districts, much of the existing racial imbalance was undoubtedly due to underlying residential patterns.

To avoid such a charge, prudent school officials should henceforth consider and implement all reasonable ways to eliminate racial isolation. Clearly, school districts cannot engage in any of the practices which courts have historically regarded as unconstitutional. These prohibited actions are described below.

SCHOOL DISTRICT ACTIONS SUGGESTIVE OF SEGREGATIVE INTENT

Changing Attendance Zones

Probably the most common of the unconstitutional practices identified in the court decisions is the creation or altering of attendance zones in a manner which increases or maintains racial segregation in schools. These practices include the outright gerrymandering of attendance zones to correspond to racial residential patterns, the expanding or contracting of attendance zones subsequent to movement of racial populations within an area, and using optional attendance zones which permit majority pupils to opt out of schools with increasing minority enrollments. One of the clearest racially motivated administrative decisions is the requirement of minority children to walk or be transported past a majority school to reach another school at which minority children predominate. This is not only segregative *per se*, it raises a cloud of suspicion over many other administrative decisions and creates a strong inference that all segregation in the schools of the district is the product of official discriminatory intent.

Construction of New Schools, Expansion of Existing Schools, and Closing of Schools

The locations of new schools, their capacities, the construction of additions to existing schools, and the use of mobile classrooms have been subjected to close scrutiny by the courts. Recently, courts have severely condemned the opening of new uniracial schools as blatantly segregative.

Construction practices which preserve *de facto* segregation have been held in the most recent decisions to violate the Fourteenth Amendment. The additional capacity created by the construction of new schools, the use of portable classrooms, and the renovation of existing facilities must not be used to maintain racially identifiable schools.

Some courts have held recently that when a school board has both segregative and integrative options in constructing a new school to serve a given area, its failure to take the integrative option is evidence of discriminatory intent.

Other practices which have been found unconstitutional are building additions to existing racially identifiable schools when excess pupils could have been accommodated in underutilized schools attended by children of a different race. Adding portable classrooms to create or maintain student segregation has also been found unconstitutional. Likewise, the technique of closing schools to create or perpetuate pupil segregation has been found to violate the constitutional rights of pupils.

Curriculum

Steering, channeling, or tracking pupils on a racial basis into specialized courses of instruction has been found to violate the constitutional right to equal educational opportunity. An historic technique which has been universally condemned by courts is to channel minority students into vocational education programs and majority pupils into college preparatory tracks.

Failure to End De Jure Segregation

The failure of school authorities since 1954 to unify a previously dual or *de jure* system has been found to be a constitutional violation.

Feeder Patterns

In the simplest feeder pattern all pupils attending a particular elementary school proceed on to a specific junior high school, and all pupils in the latter progress to a specific senior high school. The rigid maintenance of such a feeder pattern to perpetuate racial imbalances, when other alternatives are available, has been held to manifest segregative intent.

Open Enrollment

The open enrollment policy, also known as freedom of choice, allows pupils to enroll in any school in the district which offers instruction at a pupil's grade level. On its face, it is fair. However, like an optional attendance zone, its predictable effect may be to allow majority students to opt from changing schools or attending racially balanced schools. It has been found to be an intentionally segregative device.

An open enrollment plan which limits transfers to those which would improve racial balance at the receiving school is not regarded as segregative. However, open enrollment is not regarded as enough to satisfy a district's affirmative duty to fully desegregate a former dual system when other effective alternatives might be employed.

Staff Assignments

Racial separation of teachers, administrators, and support personnel has been held indicative of segregative intent. When racial makeup of the staff reflects that of the student body, thereby intensifying the racial identifiability of the school, a constitutional violation may be inferred. The only safe distribution of faculty and staff is a relatively random one where all schools, whatever their racial makeup, are served by a staff which has random balance in terms of race and teaching experience.

Transfer Policy

A number of techniques have been used by some districts to permit pupils to transfer to racially imbalanced facilities. Currently, courts will look with extreme disfavor on any transfer policy which, in practice, permits pupils to transfer from desegregated to segregated settings.

SECTION II

ASSESSMENT PROCEDURES

Assessment activities by the State Department of Education will be designed to identify school districts in possible violation of law regarding the segregation of pupils or staff* and will encourage all school districts having racial isolation reflected in their schools to voluntarily take the necessary steps to reduce the same in an effective manner. Assessment of school districts will be made on the basis of data submitted annually by school districts regarding the ethnic composition of pupils and staff. This information is currently reported on forms "OCCD-1" and "SF-1" for pupils and certificated personnel, respectively.

School districts are advised to identify schools in which the ethnic composition of pupils or staff substantially varies from the district average. "Substantial variation from the district average" does not have a precise legal definition. School districts are not required to maintain specific racial balances of pupils and staff within individual schools unless required to do so by court orders for constitutional violations.

For assessment purposes only, and without assuming constitutional violations, school districts are advised to utilize a factor of plus or minus fifteen percent from the district average for pupils and a factor of plus and minus ten percent for staff in

*"Staff" as used herein refers to all certificated and noncertificated employees.

indentifying schools as having substantial variation. For example, if a school district has a thirty percent minority enrollment and a school within a district has less than fifteen percent or more than forty-five percent minority pupils, it should be identified as a school having a substantial racial concentration. Likewise, if a school district has a staff comprised of twenty percent minority members and the staff in any school has less than fifteen percent or more than twenty-five percent minority members, it should be identified.

School districts which identify one or more schools as having a substantial variation in the ethnic composition of pupils or staff should next assess how such substantial variation came into existence. The assessment should be designed to determine if any of the practices enumerated in the foregoing section (see pp.12-15) were directly or indirectly responsible for creating or maintaining such substantial variation. If assessment reveals that the substantial variation was the probable result of segregative intent or practices which are currently considered unlawful, then the district has an affirmative obligation to eliminate the variation "root and branch," immediately.

If the assessment reveals that the substantial variation was not the result of school district actions suggestive of segregative intent, the district still has an obligation to take reasonable action to alleviate substantial racial or ethnic isolation. For example, every reasonable opportunity to change such things as attendance boundaries, the building or closing of schools, the alteration of vertical organization structure, and the assignment of staff should be utilized to reduce existing substantial variation.

Any plan developed by a school district to eliminate or reduce racial isolation should give evidence of the following:

1. reasonableness and sufficiency of the predicted racial composition of each school, both pupil and staff,

2. assurance that all elements of the school community share equitably in the implementation process,

3. assurance that curricular and extracurricular offerings and related educational services, facilities, equipment and materials are comparable between and among schools,

4. provisions to prevent resegregation within a desegregated environment,

5. provision for staff, pupil and community preparation prior to implementation,

6. provision for broad-based support from a cross-section of community leadership,

7. provision for a comprehensive communications process designed to promote understanding and minimize social conflict throughout the community,

8. provision for appropriate safety and security measures, and

9. provision for compliance with all applicable laws and regulations.

Technical assistance to school districts is available from the State Department of Education for the conducting of an assessment and the development of a plan to eliminate or alleviate racial imbalance.

If the resulting discussions and the evidence available to the State Department of Education concerning the district's actions or inactions give rise to a reasonable inference that the district's decisions have been motivated by racially segregative intent, the Superintendent of Public Instruction shall recommend to the State Board of Education that it proceed under appropriate law and due process procedures to obtain the reduction of racial isolation or the application of appropriate sanctions as provided for by law.

SECTION III

MONITORING ACTIVITIES

School districts which have implemented, or are in the process of implementing, a plan to alleviate racial isolation or segregation are advised to establish their own monitoring plan. The purposes of such monitoring should be to determine that:

1. the plan was, or is being, implemented on a timely basis,

2. racial isolation or segregation does not recur, and

3. all pupils are afforded equality of educational opportunity.

Monitoring activities should be reasonable, efficient and adapted to the unique conditions of the district. Depending on those conditions, one or more of the following areas of successful educational practice should be reviewed during the monitoring process.

Assignment of Pupils

1. Whenever feasible, racial isolation is being alleviated in all schools and the racial composition of each school approximates the racial composition of the district.

2. All pupils share equitably under the assignment policy.

3. Classrooms within each school do not reflect segregative policies.

4. Assignments to special or compensatory education programs are based on racially neutral criteria and facilitate reassignment when the purpose of such grouping has been achieved.

5. Written policy is available for all parents on the process and schedule for making and reviewing assignments to any ability groups and on procedures to review classroom assignments with school officials.

Assignment of Staff

1. The racial composition and experience of the staff in each school approximates the racial composition and experience of the staff in the district.

2. Affirmative action programs are in place to assure equal opportunities for minority and non-minority applicants and staff members.

3. Recruitment and employment practices are designed to promote a staff whose racial composition, by job categories, approximates the racial composition of the school community.

Buildings and Boundaries

1. Sites for new schools and attendance boundaries are established in such a way so as to minimize racial isolation.

2. Projected additions to existing school buildings minimize racial isolation whenever feasible.

3. School closures are strategically planned to minimized racial isolation in the remaining school.

Counseling

1. A comprehensive program is provided for preparing counselors to work effectively with special problems incidental to intergroup relations.

2. All pupils are provided meaningful information about occupational opportunities, financial aid and the variety of post-high school educational opportunties which are available.

3. Counselors foster positive collaboration among parents, pupils, staff and community members.

Curriculum and Instruction

1. Pupils who have been academically disadvantaged by racial isolation or segregation have been identified and provided appropriate remedial programs.

2. Instructional materials reflect the cultural pluralism and multiethnic composition of the world and emphasize similarities among racial and ethnic groups, rather than differences, in such a way as to build positive images.

3. Instructional materials and methodologies are used to analyze intergroup tensions on a fair, frank and objective basis with emphasis on resolution of social problems in ways that demonstrate the democratic values of the United States.

Discipline

1. A uniform set of written rules and regulations for pupils has been:

   a. adopted by the board of education,

   b. distributed and explained to parents, pupils, staff and interested community members.

   c. applied on a racially neutral basis throughout the district, and

   d. monitored on a district-wide basis to assure equitable treatment for all pupils.

2. Grievance procedures are available to parents and pupils who complain of a violation of rights by school officials.

3. A procedure has been established to allow pupils and parents to seek changes in policies and practices.

Extracurricular Activities

1. Eligibility requirements have been established and monitored to insure participation on a racially neutral basis.

2. Extracurricular activities are scheduled at times to promote participation by both minority and non-minority pupils.

3. Participation in extracurricular activities is not jeopardized for lack of transportation.

4. Every effort has been made to obtain community support for extracurricular activities and to utilize parents in formulating plans and serving as aides in these programs.

Funding

1. Maximum utilization of federal and state funds has been made for those activities that support the reduction of racial isolation.

Leadership

1. Priority goals of the board of education and administration are to minimize racial isolation and maximize effective human relationships.

2. Affirmative efforts are made to reduce absenteeism suspensions, expulsions and drop-outs.

School Community Relations

1. Provisions are made for citizens to be fully informed and to participate in structuring, monitoring and providing for the best possible educational environment.

2. Responses to parental questions and concerns are facilitated on a timely basis.

3. Common concerns of parents and pupils are addressed in a timely fashion through public information releases.

4. Every reasonable effort has been made to obtain cooperation from businesses, colleges and universities, cultural institutions and staff organizations in the implementation of the plan.

5. Every effort has been made to publicize support from community, educational, governmental, political and religious leaders.

Staff Development and Human Relations

1. Goals for a comprehensive human relations program have been established.

2. Human relations activities are conducted in a manner consistent with the established goals.

3. Provisions are made to assure that culturally different pupils are made to feel welcome in a new school environment and activities are designed to provide an orientation to the school, with written materials, to aid in an orderly adjustment.

4. Special human relations programs are conducted to insure sensitivity and communications among recently established pupil or staff groups.

Testing

1. The district's testing program has adequate safeguards to assure testing on a racially neutral basis.

2. There is a battery of testing programs and assessment strategies to assure appropriate assignment of pupils.

3. Written policy is available for all parents on standardized tests which are used, dates administered, and purposes for which such tests are used.

Transportation of Pupils

1. Effective means to reduce racial isolation have been considered or implemented prior to the utilization of pupil transportation for such purpose.

2. Maximum utilization of public transportation is made whenever it is essential to transport pupils to reduce racial isolation.

Results of monitoring activities and recommendations should be transmitted by the superintendent to the board of education for appropriate action.

FOOTNOTES

[1]*State, ex rel. Strubble v. Davis*, 132 Ohio St. 555.

[2]*Plessy v. Ferguson*, 163 U.S. 537 (1896).

[3]It should be noted that the Ohio Supreme Court ruled in 1888 that state law no longer required or permitted the segregation of school children. *Board of Education v. State*, 45 Ohio St. 555 (1888)

[4]*Brown v. Board of Education (I)*, 347 U.S. 483 (1954).

[5]*Brown v. Board of Education (II)*, 349 U.S. 294 (1955).

[6]*Green v. County Board of Education*, 391 U.S. 430 (1968).

[7]*Id.*, 437-438.

[8]*Swann v. Charlotte-Mecklenberg Board of Education*, 402 U.S.1 (1971).

[9]See for example: *Clemons v. Hillsboro (Ohio) Board of Education*, 228 F. 2d 853 (6th Cir., 1956).

[10]*Craggett v. Cleveland Board of Education*, 234 F. Supp. 381 (N.D. Ohio, 1964), aff'd 338 F. 2d 941 (6th. Cir., 1964).

[11]*Deal v. Cincinnati Board of Education (I)*, 369, F. 2d 55 (1966).
The same holding was reiterated after additional testimony was taken. *Deal v. Cincinnati Board of Education II*, 419 F. 2d 1387 (6th Cir., 1969).

[12]*Davis v. School District of the City of Pontiac*, 443 F. 2d 573, 579 (6th Cir., 1971).

[13]*Keyes v. School District No. 1, Denver, Colorado*, 413 U.S. 189 (1973).

[14]*Oliver v. Michigan State Board of Educction*, 508 F. 2d 179, 181 (6th Cir., 1974).

[15]*Id.*

[16]*Id.*, 182.

[17]*Id.*

[18]*Id.*

[19]*Keyes*, 208.

[20]*Pasadena City Board of Education v. Spangler*, 427 U.S. 424.

[21]*Dayton Board of Education v. Brinkman (I)*, 433 U.S. 406 (1977).

[22]*Columbus Board of Education v. Penick*, 99 S. Ct. 2941 (1979).

[23]*Dayton Board of Education v. Brinkman (II)*, 99 S. Ct. 2971 (1979).

[24]*Dayton Board of Education v. Brinkman (I)*, 433 U.S. 406, (1977).

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